IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No. 658 of 1986
With
FIRST APPEAL No. 2340 of 1987

For Approval and Signature:
HONOURABLE MR.JUSTICE R.S.GARG

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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RAFIK SALAM BHURA & 1 - Appellant(s)
Versus
THE DITWAS SEVA SAHAKARI MANDALI LTD & 1 - Defendant(s)

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Appearance :
MR MUKUND M DESAI for Appellant(s) : 1 - 2, 2.2.1, 2.2.2, 2.2.3, 2.2.4, 2.2.5, 2.2.6, 2.2.7,2.2.8
NOTICE NOT RECD BACK for Defendant(s) : 1,
MR RAJNI H MEHTA for Defendant(s) : 2,

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CORAM : HONOURABLE MR.JUSTICE R.S.GARG

Date : 01/08/2007

COMMON JUDGMENT

1. The driver and successors / legal representatives of the owner of Truck No.GTK-3206, being aggrieved by the award dtd.31/5/1985 passed by the Motor Accident

Claims Tribunal (Auxiliary), Panchmahal at Godhra in Motor Accident Claim Petition Nos.99 and 230 of 1982, are before this Court with a submission that the Insurance Company could not be exonerated and the owner of the goods, could not file Claim Petition as he was required to file a Civil Suit under sec.10 of the Indian Careers Act.

2. Mr.Mehta, learned counsel for the respondent - Insurance Company, placing reliance upon the judgement of the Supreme Court in the matter of **New India Assurance Co.Ltd. Vs. Vedwati & Ors., A.I.R. 2007 S.C. 1334,** submitted that in case of a gratuitous person, or a person travelling in the vehicle for hire or reward, Insurance Company cannot be held liable.

3. After going through the said judgement, I must hold that the Insurance Company has been rightly exonerated in relation to the claim made by the successors and legal representatives of Parthesinh Vaktabhai Labana, who has lost his life in the accident.

4. So far as the question of alternative forum is concerned, It is to be seen that under the provisions of Motor Vehicles Act, a person, who suffers loss to the goods in a motor accident, is always entitled to prosecute the driver, owner and insurance company of the vehicle to

recover the losses suffered to his goods in the motor accident. The submission that the claim petition was not maintainable, is misconceived.

5. Both the appeals deserve to and are accordingly dismissed. Interim relief, if any, are vacated. No costs.

(R.S. GARG, J.)

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